IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WP(C).No. 10088 of 2007(A)

PETITIONER:

KRISHNAKUMAR, S/O.NADUMURI PARAMESWARAN, AGED 48 YEARS, S.N.PURAM VILLAGE, VEMBALLUR DESOM, KODUNGALLUR TALUK, THRISSUR DISTRICT.

BY ADV. SRI.V.M.KRISHNAKUMAR

RESPONDENTS:

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1. MATHILAKAM GRAMA PANCHAYATH, REPRESENTED BY THE SECRETARY, MATHILAKAM GRAMA PANCHAYATH OFFICE, MATHILAKAM.

ADDL.2. RAMADASAN, S/O. PANAKKAPARAMBIL VELANDI, AGED 58 YEARS, VADANAPPALLY AMSOM, THRITHALLUR DESOM, THRITHALLUR WEST (PO), CHAVAKKAD TALUK, THRISSUR DISTRICT.

ADDL.3. LAKSHMI, W/O. UNNIKRISHNAN, POOVATHUN KADAVIL HOUSE, PAPPINIVATTOM, VILLAGE, PANANGAD P.O., KODUNGALLUR TALUK, THRISSUR DISTRICT.

(ADDITIONAL R2 & R3 ARE IMPLEADED AS PER ORDER IN IA. NO.4712/0 DATED 27.3.2007.)

R1 BY ADV. SHRI P.R. RAMACHANDRA MENON.

BY ADV. SRI.N.P.SAMUEL
SRI.P.R.RAMACHANDRA MENON

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 10088 OF 2007 A

Dated this the 26th June, 2007

JUDGMENT

Petitioner has approached this Court seeking the following reliefs:

> *"i) Issue a writ in the nature of mandamus commanding the respondent Panchayat to issue an application for the licence for the year 2007 - 2008 and renew the same forthwith;*
>
> *ii) Issue a writ in the nature of mandamus commanding the respondent Panchayat not to interfere with the business conducted by the petitioner in the building No.VIII/601 for the reason that there is no licence until the disposal of the Writ Petition."*

2. Case of the petitioner, in brief, is as follows:

His father was conducting a grocery shop for a long period of time. As the petitioner's father was aged and weak, petitioner started business in the building from the year 1986

onwards. Thereafter, he was granted licence by the respondent Panchayat for the years 2005 - 2006 and 2006 - 2007 as per Exts.P1 and P1(a). Exts.P2 and P2(a) are copies of the profession tax paid by him to the respondent Panchayat for the years 2005 - 2006 and 2006 - 2007. Other documents produced are Exts.P3 and P3(a) which are Verification Certificates issued by the Controller of Legal Meteorology for the years 2005 and 2006. Petitioner has also produced Ext.P4 which is the Registration Certificate issued by the Labour Officer. It is the case of the petitioner that his father executed (rather he was forced to execute) a document in favour of the additional second respondent who is none other than petitioner's brother-in-law, and as the petitioner did not like the execution of the document, petitioner took over the business from his father in 1986 and from that date onwards, he is continuing in business. Petitioner's brother-in-law re-married and he started interfering with the business of the petitioner in the shop room. OS No.11/06 was filed by petitioner. The additional third

respondent is stated to be the pendente lite transferee from the second respondent. She filed OS No.817/06 for evicting the petitioner from the building alleging that she is the owner. The Suits are pending. Petitioner relies on the decision of a Division Bench of this Court in Marimuthu v. Director General of Police (1999 (3) KLT 662) also. He also submits that he has legitimate expectation that the licence issued will be renewed. He also relies on Ext.P6 Affidavit filed by the third respondent in the application for injunction filed by her. Therein, the third respondent has stated that the petitioner will not be forcibly evicted and he is acting as a licensee under the third respondent. Counsel for petitioner points out that under the Kerala Panchayat Raj (Issue of Licence to Dangerous and Offensive Trades and Factories) Rules, 1996, renewal is a matter of course, unless there is a prohibitory order.

3. The case of Shri N.P. Samuel, learned counsel appearing on behalf of the third additional respondent is that she treated the petitioner as a licensee under her and it was stated

that he will not be evicted except in due process of law for which Suit is pending. But, upon coming to know that the petitioner is setting up a claim of title in himself by adverse possession, third respondent has cancelled the licence, as a person cannot be permitted to claim as a licensee and as the owner by adverse possession, he contends. By an Order of this Court, the application for renewal has already been granted to the petitioner. It is submitted on behalf of the petitioner that an application has been filed seeking renewal. In such circumstances, the only order that I need to pass is to direct the first respondent to consider and take a decision on the application for renewal submitted by petitioner after affording an opportunity of hearing to the petitioner and the additional third respondent, in accordance with law, within a period of six weeks from the date of production of a copy of this Judgment. It

is open to the third respondent to file objections to the grant of licence.

The Writ Petition is disposed of as above.

K. M. JOSEPH, JUDGE

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